

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
FEBRUARY 8, 2023**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission (hereinafter “Commission”) meeting held at 400 East Tryon Road in Raleigh, North Carolina, on February 8, 2023, beginning at 10:00 AM. The meeting was recorded, and a copy of the recording is on file at the Commission within the Legal Section.

ROLL CALL AND ANNOUNCEMENTS

Chairman Hank Bauer called the February 8th, Commission meeting to order and welcomed those who were attending. Chairman Bauer also welcomed Commissioner Norman Mitchell, Sr., Deputy Commissioner Mike DeSilva and General Counsel Stacey Carter-Coley. Chairman Bauer received the January Sales figures from Greg Stallings and reported they are fantastic. Sales were up 10.8% compared to 2.7% last year. Sales to mixed beverage businesses were up 47% compared to January of last year. Chairman Bauer made an announcement on behalf of Missy Welch from the Permit Section which stated Permittees should be receiving their renewal and registration notices this month. The online payment portal will open February 13, 2023, and the deadline to renew is April 30, 2023. If there are any questions, contact the Permit Section at 919-779-0700 or send an email to Permits@abc.nc.gov.

MINUTES OF THE JANUARY 11, 2023, COMMISSION MEETING

Chairman Bauer requested a motion to waive the reading of the minutes of the January 11, 2023, Commission meeting into the record. Chairman Bauer made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Chairman Bauer requested a motion to approve the minutes of the January 11, 2023, Commission meeting. Chairman Bauer made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

CONFLICTS OF INTEREST

In compliance with N.C.G.S. §138A-35, entitled Other Rules of Conduct, Chairman Bauer asked if there were any conflicts of interest or any conditions or facts which might create the appearance of a conflict of interest with respect to any matters on the agenda. Chairman Bauer stated he had reviewed the agenda and found no conflicts. Commissioner Mitchell also stated he found no conflicts.

I. HEARING CASES AND OFFERS IN COMPROMISE – 59

Chairman Bauer recognized General Counsel Stacey Carter-Coley. Ms. Carter-Coley stated there was one contested case for this month’s agenda. Case #1, M & H Express of Garner, Inc. is a final Administrative Law Judge (ALJ) decision involving two “Sale to Underage” charges and a “Sale of Counterfeit Goods”

charge. The ALJ affirmed the Commission's request for a 50-day suspension starting March 10, 2023, and a monetary payment of \$750.00 with a pay date of March 2, 2023. Ms. Carter-Coley requested the adoption of the ALJ's decision. Chairman Bauer made a motion to approve the decision. Commissioner Mitchell seconded the motion. A vote was held, the motion passed.

Ms. Carter-Coley asked twice if anyone present would like to address any of the remaining offers on the agenda. After hearing no response, Ms. Carter-Coley asked that the remaining offers be ratified by the Commission. Commissioner Mitchell made a motion to adopt the legal staff's recommendation. Chairman Bauer seconded the motion. A vote was held, the motion passed.

II. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – ASHEVILLE PIZZA & BREWING COMPANY T/A NINJA SPIRITS; LITTLE JUMBO, LLC; AND CHALL GRAY

Chairman Bauer again called upon General Counsel Stacey Carter-Coley to address the exemption requests. Ms. Carter-Coley yielded the floor to Assistant General Counsel Renee Metz to handle all exemption matters on the agenda.

Ms. Metz named the parties involved for the record (see caption above). Ms. Metz stated that Mr. Chall Gray owns 25% of Little Jumbo and is requesting to be a broker representative for Ninja Spirits (Asheville Pizza and Brewing) for the distillery portion only. Mr. Gray's attorney, Scott Burger, has been informed that there cannot be two different trade names at the same address and needs to be addressed with the Permit Section.

Ms. Metz recommended approval of the exemption with the condition that Mr. Gray shall not order spirituous liquor on behalf of Little Jumbo, but a manager without financial interest beyond that of an employee will order all spirituous liquor for Little Jumbo. Mr. Gray shall not call on Little Jumbo while he is functioning as the representative for Asheville Pizza and Brewing. A different broker representative for Asheville Pizza and Brewing, not Mr. Gray, shall have Little Jumbo as his/her account. Asheville Pizza and Brewing shall work with Permit Section to correct the error of two different "trading as" names being located at one address prior to receiving permanent distillery permits.

Chairman Bauer made the motion to adopt staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion was passed.

III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b)-FIDALGO, LLC, T/A BLACK MOUNTAIN ALE HOUSE; BLACK MOUNTAIN BREWING & DISTILLING, LLC, T/A BLACK MOUNTAIN BREWING; RAILYARD HOSPITALITY GROUP, LLC, T/A THE RAILYARD BLACK MOUNTAIN; AND JOHN RICHARDSON

Assistant General Counsel Renee Metz named the parties involved for the record (see caption above). Ms. Metz stated that Mr. John Richardson will have approximately 27% ownership interest in Railyard. There was a prior exemption granted on April 18, 2018, addressing only the Black Mountain locations. The petitioners would like to amend the exemption to include Railyard to the original exemption as one of the three satellite locations authorized by G. S. §18B-1104(a)(8), which will leave them with one more possible retail location.

Ms. Metz recommended the Commission's approval with the standard conditions. Mr. Richardson will have no day-to-day operational control of the retail locations, all malt beverages (the petitioners do not currently hold distillery permits) shall be ordered by an independent manager and the standard conditions of reasonable selections of other breweries' products, authorized to wholesale only Black Mountain malt beverages to their affiliated locations, as well as good faith effort to negotiate with third party wholesalers.

Chairman Bauer made the motion to adopt staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion was passed.

IV. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) - ISLAND TIME BEVERAGE COMPANY, LLC; MARONI BEVERAGE COMPANY, LLC, T/A VICIOUS FISHES BREWERY; KENNETH G. O'BERRY; AND ALEX D. GREMMO

Assistant General Counsel Renee Metz named the parties involved for the record (see caption above). This is an exemption where Mr. O'Berry and Mr. Gremmo plan to open a tap room via Island Time. Each individual owns 50% of each entity. Both owners would like to add commercial permits to Island Time in the future.

Ms. Metz recommended the Commission's approval with the standard conditions. Neither Mr. O'Berry nor Mr. Gremmo shall have day-to-day operational control of Island Time, but an independent manager shall be in charge of ordering all malt beverage products. Also, that there is reasonable share of other breweries' malt beverages, as well as good faith effort to negotiate with third party wholesalers.

Chairman Bauer made the motion to adopt staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion was passed.

V. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – RC BLAND ST, LLC; RESIDENT CULTURE BREWING COMPANY, LLC; P & A MCLAMB FAMILY, LLC; CHRISTOPHER TROPEANO; EDWARD MCLAMB; PHILLIP MCLAMB; AND AMANDA MCLAMB

Assistant General Counsel Renee Metz named the parties involved for the record (see caption above). This is an exemption where the Resident Culture Brewing Company has commercial and retail permits and has another entity owned by the same parties called RC Bland Street, which is a retail location. This is a situation where it is the same owners but due to different corporate names an exemption is required.

Ms. Metz recommended the Commission's approval with the standard conditions to apply. The individual petitioners shall not have day-to-day operational control of Bland Street, but an independent manager shall be in charge of ordering all malt beverage products. Also, that there is reasonable share of other breweries' malt beverages, as well as good faith effort to negotiate with third party wholesalers.

Chairman Bauer made the motion to adopt staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion was passed.

VI. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – SUPERR CONSULTING, LLC, T/A DOOLEY’S GRILL & TAVERN AND TWOBOROS BREWERY, LLC

Assistant General Counsel Renee Metz named the parties involved for the record (see caption above). Grayson Cohn and Seth Cohn have owned the two retail locations and have recently decided to add commercial brewery permits to the TwoBoros retail location.

Ms. Metz recommended the Commissions approval with the standard conditions to apply. The individual petitioners shall not have day-to-day operational control of Dooley’s, but an independent manager shall order all malt beverage products for the retail location. Also, there shall be a reasonable share of other breweries’ malt beverages, as well as good faith effort to negotiate with third party wholesalers.

Chairman Bauer made the motion to adopt staff’s recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion was passed.

VII. ABC STORE LOCATION – CALABASH ABC BOARD (NC HIGHWAY 179, CALABASH, NC)

Chairman Bauer recognized Deputy Commissioner Mike DeSilva to present item VII on the agenda. This is a request for approval of a new ABC store location in Calabash, NC.

Deputy Commissioner Mike DeSilva addressed the Commission. He stated on December 20, 2022, the Calabash ABC Board requested approval from the North Carolina ABC Commission to purchase parcels and build a new building to operate an ABC Store in Calabash. This new location would replace the existing location at 10203 Beach Drive SW, Calabash, North Carolina 28467.

NC ABC Auditor/Investigator Darnay Barefoot met with Calabash ABC General Manager Julianne Ramp and requested documents from the Calabash ABC Board regarding the purchase of property and construction for a new building. All board members have provided the financial disclosures as requested.

The property is vacant, wooded lots with a total area of 0.91 acres. The area is zoned Commercial Business with a few businesses in the immediate vicinity, along with residences in the area. This property is listed with the Brunswick County Register of Deeds and is currently owned by James M. Puleo. The Calabash ABC Board signed an Offer to Purchase contract with James M. Puleo. The purchase price will be \$235,000 plus \$1,500,000.00 for construction costs. The stand-alone store will be constructed on the property and will be approximately 9090 square feet. The land purchase price will be paid by funds on hand from the ABC Board account. Construction costs will come from a bank loan and will be repaid from the operation of the new store. When the new store opens, the existing store will close and be sold. The proceeds will then be applied to the new mortgage payment. If approved, the store plans to open in July 2025.

There are no schools in Calabash County and the nearest school is Jessie Mae Monroe Elementary, approximately 5.4 miles away. The nearest church is New Life Church Calabash, located approximately 0.8 miles away. The Sunset Beach ABC Board has a store located approximately 7.0 miles away.

On January 5th, 2023, signs were placed at the location announcing the Board's intentions of opening an ABC Store. Both Mr. Barefoot and Ms. Leiby witnessed the sign on January 11, 2023, and to this date there have been no objections or complaints.

Mr. DeSilva asked if anyone had questions or comments regarding the Calabash ABC. There was no response. He asked a second time, and again, no response. Mr. DeSilva concluded that according to N.C.G.S. §18B requirements, all elements have been satisfied. Staff recommends that the Commission give consideration for the information shared today.

Chairman Bauer made a motion to approve the new store location. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

VIII. OTHER BUSINESS

Chairman Bauer asked Ms. Stacey Carter-Coley and Mr. DeSilva if they had any other business to be heard. Ms. Carter-Coley recommended the Commission approve the two new proposed meeting dates of May 10, 2023, and June 14, 2023.

Chairman Bauer made a motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Chairman Bauer stated the next Commission meeting would be held March 15, 2023, in person at the ABC Commission beginning at 10am.

Chairman Bauer asked for a motion for adjournment of the February 2023 meeting. Commissioner Mitchell seconded the motion. A vote was held, the motion passed. The meeting adjourned.

 /S/ Hank Bauer
Hank Bauer, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

 /S/ Marie Harris
Marie Harris for the Legal Section